

APPEAL NO. 032111  
FILED SEPTEMBER 23, 2003

This appeal after remand arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 10, 2003. The hearing officer determined that the compensable injury of \_\_\_\_\_ does include a left shoulder and lumbar injury and aggravation of a preexisting injury to the cervical spine. Both parties appealed. The Appeals Panel affirmed the determination that the compensable injury of \_\_\_\_\_, does include a left shoulder and aggravated a preexisting injury to the cervical spine but reversed and remanded for the hearing officer to determine based on the record whether the compensable injury of \_\_\_\_\_, includes a herniated nucleus pulposus (HNP) at L4-5. The hearing officer on remand determined that the compensable injury does not include a HNP at L4-5. The appellant (claimant) appealed, arguing that the hearing officer's finding on remand that the compensable injury includes a lumbar injury in the form of an aggravation of his preexisting lumbar injury is in direct conflict with the finding that the compensable injury does not include a HNP at L4-5. The respondent (carrier) responded, urging affirmance. The carrier contends that the findings are not in conflict but rather the claimant had a soft tissue injury, which is an aggravation of a preexisting soft tissue injury.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury of \_\_\_\_\_ did not include a HNP at L4-5. The complained-of determination regarding extent of injury involved a fact question for the hearing officer. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Although there is conflicting evidence in this case, we conclude the hearing officer's extent-of-injury determination is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **UNITED STATES FIDELITY & GUARANTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge